



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

JRE
Docket No: 1621-99
13 December 1999

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 9 December 1999. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Marine Corps on 9 March 1992. You underwent a pre-separation physical examination on 24 August 1994, and stated that you were in good health at that time, and taking no medications. You disclosed a history of swollen or painful joints, but that condition was not considered disqualifying for separation. You were considered fit for separation. You were discharged on 26 August 1994 because of your failure to conform to weight control standards. The Department of Veterans Affairs (VA) awarded you 0% ratings for bilateral knee conditions effective 7 February 1997.

The Board noted that in order to be entitled to disability benefits administered by the Department of the Navy, a service member must be unfit to perform the duties of his office, grade, rate or rating by reason of physical disability. As noted above, you were found fit for duty on 24 August 1994. Although your knee condition may have contributed to your obesity, that does not excuse your failure to meet weight control standards, or support a finding of unfitness. The VA's award of a non-compensable ratings for your knee conditions indicates that there was no significant impairment caused by the rated conditions.

Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director